

UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

FILED - LN
May 5, 2014 9:46 AM
TRACEY CORDES, CLERK
U.S. DISTRICT COURT
WESTERN DISTRICT OF MICHIGAN
BY dfw / SCANNED BY: [signature]

LAMONT HEARD, et al

Plaintiffs,

V.

Case No. 1:13-cv-373

Hon. GORDON J. QUIST

TOM FINCO, et al.,

Defendants.

PLAINTIFF'S MOTION FOR APPOINTMENT OF COUNSEL

NOW COMES, Plaintiffs Lamont Heard, William Johnson, Jamero Moses & Anthony Nelson, in Pro Per respectfully moves this Court to grant this motion for appointment of Counsel in the the above entitled cause, and states the following.

1. On April 21, 2014 this Honorable Court granted Defendants Motion to take deposition of plaintiffs (docket no. 65). Because of this appoint of counsel is necessary as to represent the best interest of the Plaintiffs during the proceeding of the deposition.
2. That the legal matters argued in the Plaintiffs complaint and supporting pleadings, are of a complex legal and factual nature.
3. That the complexity of these matters involve the interpretation of analysis. Pursuant to Federal Rules of Evidence, the United States Constitutions, and debates amongst United States Supreme Court Justices, the Federal Court's regarding matters

that exceeds the plaintiffs abilities to argue the matters effectively warrants the appointment of counsel.

4. That these plaintiffs are indigent and evidence of this, these Plaintiffs was granted **Forma Pauperis**. These Plaintiffs are unable to pay for retained Counsel, who is qualified and experienced at pursuing the complex nature of these Constitutional violations that gave rise to this action.

CASE LAW:

A prison is indigent if he is "financially unable to obtain adequate representation". 18 U.S.C. § 3006A(a) 1994).

The term "indigent" is a functional concept focusing on the petitioner's inability to pay the necessary fees and costs, without giving up the necessities of life or the small amenities available to men and women in prison.

Due to these plaintiffs possessing only the limited funds that his family provides them for purchasing of hygiene products, legal materials.

It must be noted, that the standard of indigence [for appointment of counsel under 18 U.S.C. § 3006A(a)(2)(B) 2000] are less strict than those regarding eligibility to prosecute a Petition "In Forma Pauperis", and thus many who cannot qualify to proceed under 28 U.S.C. § 1915 will be entitled to the benefits of Counsel under 18 U.S.C. § 3006A(g) [recodified as 18 U.S.C. § 3006A(a)(2)(B) 1994]. (See Also: *McFarland v Scott*, 512 U.S. 849 (1994).

In conformity with these expressions of Congressional intent, the Courts generally have endorsed the Appointment of Counsel to represent indigent and legally unsophisticated prisoners in "cases that turn on substantial and complex procedural,

legal or mixed legal and factual questions". Hughes v Joliet Correctional Center, 931 F.2d 425, 429 (7th Cir. 1991); Hodge v police officers, 802 F.2d 58, 61 (2nd Cir. 1986) (complexity of issues); Weygant v Look, 718 F.2d 952, 954 (9th Cir. 1983); Abduc v Lane, 468 F.Supp 33, 37 (E.D. Tenn) aff'd 588 F.2d 1178 (6th Cir. 1978).

Accordingly, Counsel has been appointed where "factual complex cases, e.g., ones involving" conflicting testimony " in which the truth is more likely to " be exposed where both sides are represented by those trained in the presentation evidence.

Plaintiffs contends, that in light of the above argued facts that they are entitled to the Appointment of Counsel, so that their Constitutional arguments can be advanced and their Constitutional rights preserved.

PRAYER FOR RELIEF

WHEREFORE, Plaintiffs Lamont Heard, William Johnson, Jamero Moses & Anthony Nelson, respectfully ask that this Honorable Court grant this motion and they be appointed Counsel, who is qualified to meet the adversarial test deployed by the Defendants, and professionally present the complex nature of the arguments conveyed in their Pleadings.

Respectfully Submitted,

Lamont Heard

William Johnson

Jamero Moses

Jamero Moses

Anthony Nelson

DATED: 5 / 1 / 2014